

The Gazette



of India

PUBLISHED BY AUTHORITY

No. 13] NEW DELHI, SATURDAY, MARCH 28, 1959/CHAITRA 7, 1881

NOTICE

The undermentioned *Gazettes of India Extraordinary* were published upto the 17th March, 1959.

Issue No.	No. and date	Issued by	Subject
26.	No. 16-ITC(PN)/59, dated 14th March 1959.	Ministry of Commerce and Industry.	Issue of licences to certain scheduled industries for import of raw materials and components on yearly basis.
27.	No. R.S.1/1/59-L., dated 17th March 1959.	Rajya Sabha Secretariat	The President prorogues the Rajya Sabha.

Copies of the *Gazettes extraordinary* mentioned above will be supplied on Indent to the Manager of Publications, Civil Lines, Delhi. Indents should be submitted so as to reach the Manager within ten days of the date of issue of these *Gazettes*.

CONTENTS

	PAGES		PAGES
PART I—SECTION 1.—Notifications relating to Non-Statutory Rules, Regulations and Orders and Resolutions issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Supreme Court	87	PART II—SECTION 3.—SUB-SECTION (H).—Statutory orders and notifications issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories)	745
PART I—SECTION 2.—Notifications regarding Appointments, Promotions, Leave, etc. of Government Officers issued by the Ministries of the Government of India (other than the Ministry of Defence) and by the Supreme Court	157	PART II—SECTION 4.—Statutory Rules and Orders notified by the Ministry of Defence	39
PART I—SECTION 3.—Notifications relating to Non-Statutory Rules, Regulations, Orders and Resolutions, issued by the Ministry of Defence	45	PART III—SECTION 1.—Notifications issued by the Auditor General, Union Public Service Commission, Railway Administration, High Courts, and the Attached and Subordinate Offices of the Government of India (Published at Simla)	365
PART I—SECTION 4.—Notifications regarding Appointments, Promotions, Leave, etc. of Officers, issued by the Ministry of Defence	79	PART III—SECTION 2.—Notifications and Notices issued by the Patent Office, Calcutta (Published at Simla)	81
PART II—SECTION 1.—Acts, Ordinances and Regulations	NII	PART III—SECTION 3.—Notifications issued by or under the authority of Chief Commissioners (Published at Simla)	179
PART II—SECTION 2.—Bills and Reports of Select Committees on Bills	NII	PART III—SECTION 4.—Miscellaneous Notifications including notifications, orders, advertisements and notices issued by Statutory Bodies (Published at Simla)	141
PART II—SECTION 3.—SUB-SECTION (I)—General Statutory Rules (including orders, bye-laws etc., of a general character) issued by the Ministries of the Government of India (other than the Ministry of Defence) and by Central Authorities (other than the Administrations of Union Territories)	407	PART IV—Advertisements and Notices by Private individuals and Private bodies (Published at Simla)	57

PART I—Section 1

**Notifications relating to Non-Statutory Rules, Regulations and Orders and Resolutions issued
by the Ministries of the Government of India (other than the Ministry of Defence) and by
the Supreme Court**

MINISTRY OF TRANSPORT & COMMUNICATIONS

(Department of Transport)

(Transport Wing)

RESOLUTION*New Delhi, the 19th March 1959*

No. 6-MT(33)/58.—In partial modification of the Ministry of Transport & Communications, Department of Transport (Transport Wing) Resolution No. 6-MT(33)/58, dated the 15th December, 1958 the Central Government has been pleased to appoint Shri E. H. Glassup, Deputy Conservator, Vizagapatam Port, as the representative of the Vizagapatam Port Authority, to be a Member of the National Welfare Board for Seafarers *vice* Shri S. N. Bayankar.

ORDER

Ordered that a copy of this Resolution be communicated to the Private and Military Secretaries to the President, the Prime Minister's Secretariat, the Cabinet Secretariat, the Planning Commission, the Ministries of the Government of India, all the State Governments, the Port Trusts, Bombay and Madras, the Port Commissioners, Calcutta, the Cochin Harbour Authority, and the Director General of Shipping Bombay.

Ordered also that the Resolution be published in the Gazette of India for general information.

NAGENDRA SINGH, Jt. Secy.

MINISTRY OF LABOUR AND EMPLOYMENT*New Delhi, the 18th March 1959*

No. LR-II-10(136)/58.—The following decision of Shri F. Jeejeebhoy, Chairman, Labour Appellate Tribunal of India, in respect of a matter referred to him under section 6 of the Industrial Disputes (Banking Companies) Decision Act, 1955 (41 of 1955) by the Order of the Government of India in the Ministry of Labour & Employment No. S.O. 208, dated the 17th January, 1959, is hereby published for general information.

**BEFORE SHRI F. JEEJEEBHOY, CHAIRMAN, LABOUR
APPELLATE TRIBUNAL OF INDIA, BOMBAY.**

REFERENCE B-1 OF 1959

BETWEEN

The Punjab and Sind Bank Ltd., Dehra Dun.

AND

Their workmen.

In the matter of the interpretation of paragraph 536 of the Award of the All India Industrial Tribunal (Bank Disputes) Bombay, constituted by the Government of India in the Ministry of Labour and Employment No. S.R.O. 35, dated 5th January 1952.

The 12th day of March 1959

PRESENT:

Shri F. Jeejeebhoy—Chairman.

APPEARANCES:

For the Bank—Shri Sohan Singh, Manager.

For the Workmen—Shri K. K. Mundal and Shri G. N. Trikanand, Vice-President and Asstt. Secretary respectively of the All India Bank Employees' Association.

State—Uttar Pradesh.

Industry—Banking.

DECISION

By an Order dated 17th January 1959 the Government of India in the Ministry of Labour and Employment has referred to me the following question under the Industrial Disputes (Banking Companies) Decision Act, 1955:—

"Whether the expression 'language of the person so transferred' occurring in the second sentence of paragraph 536 of the Award of the All-India Industrial Tribunal (Bank Disputes) constituted by the notification of the Government of India in the Ministry of Labour No. S.R.O. 35, dated the 5th January 1952 modified as aforesaid is synonymous with the expression 'language areas in which an employee has been

serving occurring in the third sentence of the said paragraph and, if not, whether a member of the subordinate staff serving outside the area of this language (mother tongue) can be transferred to the area of his language (mother tongue)".

2. This question of interpretation has reference in the main to the language of paragraph 536 of the award of the All India Industrial Tribunal (Bank Disputes) which is worded as follows:—

"We direct that in general the policy should be to limit the transfers to the minimum consistent with banking needs and efficiency. So far as members of the subordinate establishment are concerned there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred. We further direct that even in the case of workmen not belonging to the subordinate staff, as far as possible there should be no transfer outside the State or the language area in which an employee has been serving except of course, with his consent. In all cases the number of transfers to which a workman is subject should be strictly limited and normally it should not be more than once in a year."

The word "mother tongue" does not appear in paragraph 536.

3. There are thus two sentences in this paragraph which have a direct relation to the question for determination and I shall refer to them hereafter as 'the second sentence' and 'the third sentence' for the sake of convenience. The second sentence puts the proposition thus:

"So far as members of the subordinate establishment are concerned, there should be no transfers ordinarily and if there are any transfers at all they should not be beyond the language area of the person so transferred."

4. This sentence is categorical in language and content, and makes it quite clear that any transfer of a member of the subordinate staff should not extend beyond "the language area" of the person so transferred. The question before me however is the converse of this, namely, whether a member of the subordinate staff serving outside the area of his language (mother tongue) can be transferred to the area of his language (mother tongue). I have been invited by the Bank to refer to the third sentence, namely:

"We further direct that even in the case of workmen not belonging to the subordinate staff, as far as possible there should be no transfer outside the State or the language areas in which an employee has been serving, except of course with his consent".

5. This means that a workman not belonging to the subordinate staff cannot be transferred outside the State or the language area in which he has been serving, except with his consent; and the term 'has been serving' in my opinion has in the context the connotation of an original appointment in that place and a sense of permanency or attachment to that area.

6. The employers contend that greater freedom was given to Banks to transfer workmen belonging to the subordinate staff than workmen who did not belong to the subordinate staff, and it was urged that the reason for such a provision was in their opinion the fact that it was easier for a member of the subordinate staff to settle down in the new area of his transfer.

7. A close examination of the language of these two sentences by itself does not conclude the issue. The Reference has arisen out of the fact that a person from Patiala, who had settled in Dehra Dun, was inducted as a subordinate into the Bank at Dehra Dun, and is now objecting to a transfer to Patiala, which in fact is within his language area.

8. In deciding this question of interpretation it is not altogether irrelevant to refer to the general apprehensions which arise in the mind of a subordinate when he is being transferred from one place to another. Apart from any question of victimisation, there is the general anxiety of the subordinate staff that a transfer amounts to an uprooting from his accepted surroundings, with the result that he has to set up a home all over again in a new place, with all its attendant expense, inconvenience, and difficulties of housing and social environment. It is true that no question of social environment arises in the case of a subordinate who is transferred to his own language area, but there are special circumstances in cases where a subordinate has settled down in an area away from his original home, has joined the Bank there, and declines to be transferred to his own home area, and this can happen even if he is not completely domiciled in the area in which he has secured his employment. I can appreciate the argument of the Bank that by transferring a subordinate from his accepted place of work to his home environment cannot be

said to be altogether to the disadvantage of the employee, but it has to be realised that the employee had sought employment in the Bank from another place to which he had previously proceeded, and that he had continued working in the Bank in his new home. To a subordinate so situated the prospect of a transfer even to his original home must necessarily cause justifiable apprehension, unless he was desirous of returning to his place of birth.

9. I am of the view that the words "if there are any transfers at all, they should not be beyond the language area of the person so transferred" has reference to those cases where the members of the subordinate staff have in the original instance been appointed in their own language areas; otherwise those words would have little meaning. Even if the words "language area of the person so transferred" in the second sentence conveys the same general idea as the expression "language areas in which the employee has been serving" occurring in the third sentence, it must be remembered that paragraph 536 has been carefully worded, and the second and third sentences apply respectively to two separate classes of employees, and it would not be justifiable to take any aggregate meaning for the purposes of this Reference. It is true that the word "even" appears in the third sentence, but it is really intended to intensify the factum of the prohibition: Whereas in the case of the subordinate staff it is stated in the second sentence that transfers should not be *beyond the language area of the person transferred*, in the case of workmen who are not subordinates there is to be no transfer *outside the State or the language area in which an employee has been serving*. It may, of course be argued that the words 'State' and 'language area' are more or less synonymous, but it can well be that a language area is wider than the confines of a State. In my opinion the words "language area of the persons so transferred" occurring in the second sentence of paragraph 536 of the award were not intended to be synonymous with the words "language area in

which an employee has been serving" occurring in the third sentence of the paragraph although in certain cases they may have the same connotation.

10. The truth of the matter seems to be that specific provision has not been made in the award for cases like the one under reference, but the award has given sufficient indication as to what it has had in mind on the subject of transfers. The basic scheme was to eliminate as far as possible the transfer of a subordinate, who had his and had taken service with the Bank in a particular region, to another area uncongenial to him, save in exceptional cases, upon the basis that such a transfer might result not only in an emotional disturbance but also in a drain on the subordinate's resources. If therefore a man from Patiala had left Patiala to settle down in Dehra Dun, and had joined the Bank in Dehra Dun, and now objects to being transferred to Patiala, it is one of those cases which the award was endeavouring to protect by paragraph 536. No doubt the second sentence has immediate application to that class of cases where a person of a particular language area being settled in his own home surroundings has taken work as a subordinate in the Bank in that area. But taking into account the language of paragraph 536, and the tenor of the award, I hold that a member of the subordinate staff, who when living outside the area of his language (mother tongue) takes service in the Bank in that place, cannot be transferred to the area of his language (mother tongue) without his consent.

11. The Reference is answered accordingly.

(Sd.) F. JEEBHOY,
Chairman.

K. D. HAJELA, Under Secy.

